IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

3:05-cr-00217-FDW

RONALD T. CLARK,)	
Petitioner)	
)	
)	
vs.)	NOTICE
)	
UNITED STATES OF AMERICA,)	
Respondent)	
)	

THIS MATTER comes before the Court as a result of Ronald Clark's petition, styling itself as a Rule 60(b)(4) motion. (Doc. No. 28.) The Court hereby gives notice as required under Castro v. United States, 540 U.S. 375 (2003), that it intends to recharacterize Mr. Clark's petition as a motion to vacate, correct, or set aside sentence pursuant to 28 U.S.C. § 2255. This Court also hereby warns Mr. Clark that this recharacterization means that any subsequent § 2255 motion will be subject to the restrictions on "second or successive" motions as outlined in § 2255. If Mr. Clark objects to the Court's treating his petition as a § 2255 motion, he has until November 30, 2008, "to withdraw the motion or amend it so that it contains all the § 2255 claims he believes he has." Castro, 540 U.S. at 383; see also United States v. Blackstock, 513 F.3d 128, 132 (4th Cir. 2008). Pursuant to Rule 2 of the Rules Governing Section 2255 Proceedings, in order to amend the motion, Mr. Clark must, at least, specify all the grounds for relief available to him and state the facts supporting each ground. If Mr. Clark chooses not to withdraw or amend the motion, then the Court has the power to dismiss it at that time if it finds that the "motion and the files and records of the case conclusively show that [Mr. Clark] is entitled to no relief." 28 U.S.C. § 2255.

Signed: June 16, 2008

Frank D. Whitney
United States District Judge